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EXAMINER

TRAN, THAI Q

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/692,987

Applicant(s)

HAMADA, ICHIRO

Examiner

Thai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6,9-13,15,16,18-21,24-28,30-33,36-40 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11,13,15,39,40 and 42 is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9,10,12,16,18-21,24-28,30-33 and 36-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/6/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed March 14, 2005 have been fully considered but they are not persuasive.

In re pages 10-12, applicant argues, with respect to claim 1, that Takeda does not disclose or suggest "recording rate setting command generating means for generating a recording rate setting command on the basis of the information corresponding to the transmission rate and for transmitting the recording rate setting command to the recording apparatus through said interface means when a connection between the recording apparatus and said interface means is initiated, when a request command is received from the recording apparatus, or periodically after predetermined intervals" as called for in claim 1.

In response, the examiner respectfully disagrees. As recognized by applicant, Takeda shows, in Fig. 1, a receiving apparatus that receives transmitted packets that include an MPEG2 transport stream, separates bandwidth information from the packets, and then sends the transport stream of the packets to a recording apparatus and the recording apparatus then determines the recording rate of the transport stream based on a "leak rate" of the transport stream, and records the transport stream at this recording rate. Thus, Takeda does disclose the claimed "recording rate setting command generating means for generating a recording rate setting command on the basis of the information corresponding to the transmission rate and for transmitting the recording rate setting command to the recording apparatus through said interface

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means". The newly added limitation "when a connection between the recording apparatus and said interface is initiated" is an inherent feature of Takeda because in order to record the transport stream at the determined recording rate based on the "leak rate" of the transport stream, the recording apparatus and said interface must be initiated.

Even if, arguendo, that the newly added limitation "when a connection between the recording apparatus and said interface is initiated" is not an inherent feature of Takeda. Takeda discloses in page 13, paragraph #0173 and #0174 that the analysis means 901 receives all of the self ID packets outputted from each node connected to the bus at the reset of P1394 and analyzed a tree structure of the bus, using the information included in the self ID packets. The analysis means 901 of Takeda initiates the connection of the recording apparatus and the interface means. Thus, Takeda does discloses the newly added limitation "when a connection between the recording apparatus and said interface is initiated" in page 13, paragraph #0173 and #0174.

In re pages 12 and 14, applicant states that claims 3-6 and 9-12 depend from claim 1 and are each distinguishable over Takeda for at least the same reasons.

In response, at discussed above with respect to claim 1, Takeda discloses all the limitations of claim 1.

In re page 13, applicant argues that claim 28 is patentably distinguishable over Takeda for the same reasons as discussed in claim 1 above.

In response, as discussed above with respect to claim 1, Takeda discloses all the features of claim 1.

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In re pages 13, applicant states that claims 30-33, 36, 38, and 40 depend from claim 28 and, for at least the same reasons, are distinguishable over the cited art.

In response, as discussed above with respect to claim 1, Takeda discloses all the features of claim 1.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-6, 9-10, 16, 18-21, 24-25, 28, 30-33, and 36-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Takeda et al (US 2002/0064180 A1) as set forth in the last Office Action.

Regarding claim 1, Takeda et al discloses a digital broadcast receiver for receiving and decoding a digital broadcast containing video data and audio data which are transmitted in the form of a transport stream (Fig. 1), said receiver comprising:

interface means (the recording apparatus 128 and the reproducing apparatus 129 of Fig. 1, page 7, paragraphs #0106 and #0107) for supporting communication with a recording apparatus;

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judging means (processing means 118 of Fig. 1, pages 8-9, paragraphs #0118 and #0120) for determining information corresponding to a transmission rate of a received transport stream of a received digital broadcast; and

recording rate setting command generating means (page 9, paragraph #0120) for generating a recording rate setting command on the basis of the information corresponding to the transmission rate and for transmitting the recording rate setting command to the recording apparatus through said interface means when a connection between the recording apparatus and said interface means is initiated, when a request command is received from the recording apparatus, or periodically after predetermined intervals (page 13, paragraph #0173 and #0174).

Regarding claim 3, Takeda et al discloses the claimed wherein said recording rate setting command generating means further transmits the recording rate setting command just before the received transport stream is transmitted through said interface means to the recording apparatus (page 9, paragraph #0120).

Regarding claim 4, Takeda et al discloses the claimed wherein said recording rate setting command generating means further transmits the recording rate setting command before the recording apparatus starts recording the received transport stream (page 9, paragraph #0120).

Regarding claim 5, Takeda et al discloses the claimed wherein said recording rate setting command generating means further transmits the recording rate setting command when a reception channel is switched (page 9, paragraph #0120).

Regarding claim 6, Takeda et al discloses the claimed wherein said recording rate setting command generating means further transmits the recording rate setting command when a broadcast program is changed (page 9, paragraph #0120).

Regarding claim 9, Takeda et al discloses the claimed wherein, when the transmission rate of the received transport stream is changed during a recording operation in the recording apparatus, said recording rate setting command generating means temporarily stops the recording operation and generates and transmits an updated recording rate setting command (page 9, paragraph #0120).

Regarding claim 10, Takeda et al discloses the claimed wherein the information corresponding to the transmission rate indicates that the digital broadcast includes a high definition television broadcast or that the digital broadcast includes a standard television broadcast (page 9, paragraph #0120).

The method claims 16, 18-21, and 24-25 are rejected for the same reasons as discussed in corresponding apparatus claims 1, 3-6, and 9-10 above, respectively.

Regarding claim 28, Takeda et al discloses a digital broadcast receiver (Fig. 1), comprising:

- a receiver (a tuner 126 of Fig. 1, pages 5-6, paragraphs #0094 and #0096) operable to receive a digital broadcast signal and to provide a transport stream representing video data and audio data;

- an interface (the recording apparatus 128 and the reproducing apparatus 129 of Fig. 1, page 7, paragraphs #0106 and #0107) operable to support communication with a recording apparatus; and

a processor (processor 118 of Fig. 1, page 9, paragraph #0120) operable to generate a command that sets a recording rate as a function of a transmission rate of the transport stream, to transmit the command to the recording apparatus through said interface when a connection between the recording apparatus and said interface is initiated, when a request command is received from the recording apparatus, or periodically after predetermined intervals, and to transmit the transport stream to the recording apparatus through said interface, whereby the recording apparatus records the transport stream in accordance with the set recording rate.

Regarding claim 30, Takeda et al discloses the claimed wherein said processor is further operable to transmit the command just before the transport stream is transmitted to the recording apparatus (page 9, paragraph #0120).

Regarding claim 31, Takeda et al discloses the claimed wherein said recording rate setting command generating means is further operable to transmit the command before the recording apparatus starts recording the received transport stream (page 9, paragraph #0120).

Regarding claim 32, Takeda et al discloses the claimed wherein said processor is further operable to transmit the command when a reception channel is switched (page 9, paragraph #0120).

Regarding claim 33, Takeda et al discloses the claimed wherein said processor is further operable to transmit the command when a broadcast program is changed (page 9, paragraph #0120).



Regarding claim 36, Takeda et al discloses the claimed wherein when the transmission rate of the transport stream is changed during a recording operation in the recording apparatus, said processor is further operable to temporarily stops the recording operation and to generates and transmit an updated command (page 9, paragraph #0120).

Regarding claim 37, Takeda et al discloses the claimed wherein said processor is operable to determine the transmission rate as a function of whether the transport stream is from a high definition television broadcast or from a standard television broadcast (page 9, paragraph #0120).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 26-27, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeda et al (US 2002/0064180 A1).

Regarding claim 12, Takeda et al discloses all the claimed limitations as discussed in claim 1 except for providing wherein said interface means includes an IEEE1394 interface.

Takeda et al additionally teaches that, as a transmitting medium 114 used for transmission and reception of digital video and audio data, P1394 interface can be used in page 6, paragraph #0096.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the P1394 interface into the recording apparatus 128 and the reproducing apparatus 129 of Fig. 1 of Takeda et al because P1394 interface has higher transmission rate.

Regarding claim 26, Takeda et al discloses all the claimed limitations as discussed in claim 16 above except for providing receiving a response from the recording apparatus when a recording rate corresponding to a generated recording rate setting command cannot be set in the recording apparatus.

It is noted that the capability of using lights to show the operations states of the recorder is old and well known in the art and; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the well known lights which shown the operational states of the recorder into Takeda et al's system in order to allow the user to easily and quickly identify the operational states of the recorder so that the recorder can be easily controlled.

Method claim 27 are rejected for the same reasons as discussed in corresponding apparatus claim 12 above, respectively.

Claim 38 is rejected for the same reasons as discussed in claim 12.

***Allowable Subject Matter***

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6. Claims 11, 13, 15, 39-40, and 42 are allowed.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

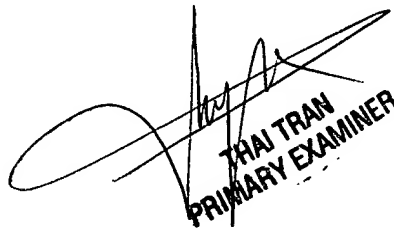
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Tran whose telephone number is (703) 305-4725. The examiner can normally be reached on Mon. to Friday, 8:00 AM to 5:30 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTQ



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PRIMARY EXAMINER